

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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YAAKOV KATZ,	:	12 CV 4914-FB-VVP
individually and on behalf of a class,	:	
	:	
Plaintiff,	:	
	:	<u>ANSWER</u>
-against-	:	
	:	
CULVER NARROWS BEER DISTRIBUTORS, INC.,	:	
	:	
Defendant.	:	
	:	

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Defendant Culver Narrows Beer Distributors, Inc. ("Culver Narrows"), by its attorneys Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Einiger, LLP, for answer to the Complaint, dated September 24, 2012:

1. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraph 1.
2. Declines to respond to the allegations of paragraphs 2 and 3 to the extent they constitute legal conclusions and not factual allegations, and otherwise denies knowledge or information sufficient to form a belief as to the truth of those allegations.
3. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraphs 4 – 7.
4. Denies the allegations of paragraph 8.
5. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraph 9.

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6. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraph 10, except denies that defendant violated 15 U.S.C. §§1681 et seq.

7. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraphs 13 and 15 – 25.

8. Declines to respond to the allegations of paragraph 26 to the extent they constitute legal conclusions and not factual allegations, and otherwise denies knowledge or information sufficient to form a belief as to the truth of those allegations, except denies that defendant violated 15 U.S.C. §1681c(g)(1).

9. Declines to respond to the allegations of paragraphs 27 and 28 to the extent they constitute legal conclusions and not factual allegations, and otherwise denies knowledge or information sufficient to form a belief as to the truth of those allegations

10. Denies the allegations of paragraph 29, except admits that defendant accepts credit cards and debit cards in the course of transacting business and used cash registers that electronically print receipts for credit card transactions.

11. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraphs 30 – 38.

12. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraph 39, except admits that defendant accepts Visa cards.

13. Denies knowledge or information sufficient to form a belief as to the truth of allegations of paragraphs 40 – 52.

14. Denies the allegations of paragraph 53.

15. Declines to respond to the allegations of paragraphs 54 and 55 to the extent they constitute legal conclusions and not factual allegations, and otherwise denies knowledge or information sufficient to form a belief as to the truth of those allegations.

FIRST AFFIRMATIVE DEFENSE

16. Any statutory damages award would be unconstitutionally excessive as applied to Culver Narrows.

SECOND AFFIRMATIVE DEFENSE

17. Any alleged failure by Culver Narrows to comply with the truncation provisions of FACTA was not wilful.

WHEREFORE, Culver Narrows demands judgment dismissing the Complaint and awarding it the costs and disbursements of this action and such other and further relief as the Court deems just and proper.

Dated: December 4, 2012

ABRAMS, FENSTERMAN, FENSTERMAN, EISMAN,
FORMATO, FERRARA & EINIGER, LLP

By 

Sarah C. Lichtenstein, Esq.

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Attorneys for defendant

Culver Narrows Beer Distributors, Inc.